

## SUBCOMMITTEE NO. 2

## Agenda

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Upon Adjournment of Session  
Room 112

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## 0555 Secretary for Environmental Protection

The Secretary for Environmental Protection heads the California Environmental Protection Agency (Cal-EPA). The Secretary is located in Sacramento and is responsible for overseeing and coordinating the environmental regulatory activities of the following boards, departments, and offices:

Air Resources Board	State Water Resources Control Board
Integrated Waste Management Board	Department of Toxic Substances Control
Department of Pesticide Regulation	Office of Environmental Health Hazard Assessment

The budget proposes total expenditures of \$9.3 million (\$2.3 million General Fund), an increase of \$2.0 million (28.2 percent) from the current-year budget. The increase in funding is primarily the result of the new Local Environmental Enforcement, Training, and Grant Program (\$2.0 million) and the Environmental Justice Small Grants Program (\$250,000).

Secretary for Environmental Protection Program Expenditures					
<i>(dollars in thousands)</i>					
Program Expenditures	2001-02	2002-03	2003-04	\$ Change	% Change
Environmental Protection Programs	\$5,593	\$5,198	\$5,518	\$320	6.2
Special Environmental Programs	3,548	2,035	3,758	1,723	84.7
<b>Total</b>	<b>\$9,501</b>	<b>\$7,233</b>	<b>\$9,276</b>	<b>\$2,043</b>	<b>28.2%</b>

### Issues

#### Environmental Protection Indicators for California (EPIC)

**Budget Proposal:** The budget proposes to reduce all funding for EPIC in 2003-04. Current-year funding for EPIC was \$83,000 for a staff position with the Office of Environmental Health Hazard Assessment.

**Background:** The administration created the EPIC Project in 2000-01 to establish and implement a process for developing environmental indicators. Broadly speaking, an environmental indicator is a scientifically based tool to track changes that are taking place in the environment. The EPIC Project has been a joint effort of the Secretaries for Environmental Protection and Resources, with most of the staff work being conducted by the Office of Environmental Health Hazard Assessment (OEHHA). The Project released its first report, containing data for a number of indicators, in April 2002. Since 2000-01, OEHHA's expenditures for the EPIC Project have been roughly \$700,000 (General Fund).

**LAO Recommendation:** The LAO thinks that the EPIC Project's "results based" approach to environmental protection has merit. However, the LAO's review of similar initiatives in other states and countries finds that their effectiveness and value require that the Legislature be very much involved in the effort.

To accomplish this goal, the LAO recommends enacting legislation to set goals for EPIC's operation and guide the use of the project's information by the Legislature and the administration, including in the budget development process.

**Staff Recommendation:** Given the priority that the Secretary of the agency has placed in the EPIC program, the subcommittee may wish to ask why it has proposed to eliminate funding for the EPIC program?

## 3900 Air Resources Board

This Board is responsible for achieving and maintaining satisfactory air quality in California. This responsibility requires the Board to establish ambient air quality standards for certain pollutants, regulate vehicle emissions, identify and control toxic air pollutants, administer air pollution research studies, develop and oversee implementation plans for the attainment and maintenance of both state and federal air quality standards and oversee the regulation of sources of pollution by air pollution control districts.

The budget proposes total expenditures of \$163.2 million (\$10.4 million General Fund), an increase of \$2.7 million (1.7 percent) from the current-year budget.

<b>Air Resources Board Program Expenditures</b>					
<i>(dollars in thousands)</i>					
<b>Program Expenditures</b>	<b>2001-02</b>	<b>2002-03</b>	<b>2003-04</b>	<b>\$ Change</b>	<b>% Change</b>
Mobile Source	\$140,318	\$109,750	\$112,986	\$3,236	2.9%
Stationary Source	45,942	40,685	39,613	(1,072)	-2.6%
Program Direction and Support	10,200	10,514	10,547	33	0.3%
Distributed Program Direction & Support	(10,200)	(10,514)	(10,547)	(33)	-0.3%
Subvention	15,111	10,111	10,637	526	4.9%
<b>Total</b>	<b>\$201,371</b>	<b>\$160,546</b>	<b>\$163,236</b>	<b>\$2,690</b>	<b>1.7%</b>

## Issues

### Funding the Stationary Source Program

**Budget Proposal:** The Administration proposes a stationary source fee increase of \$10.0 million to backfill an equal reduction in General Fund support for this program under the polluter pays principle. The budget proposes the following mix of funding sources for the stationary source program:

- \$14.9 million from the Air Pollution Control Fund (stationary source fees).
- \$10.4 million from the General Fund.
- \$9.8 million from federal funds
- \$4.4 million from reimbursements and other funds.

**Background:** The stationary source program works with the local air pollution control districts to reduce emissions from stationary sources to comply with state and federal laws.

During the recent mid-year revision process, the Legislature adopted and the Governor signed AB 10X (Oropeza) authorizing a stationary source fee increase to be appropriated by the Legislature through the budget process. AB 10X gives the authority to the ARB to establish a new fee structure for stationary source fee payers and another fee structure for the manufacturers of consumer products and manufacturers of architectural coatings. A statutory cap of \$13 million in total fees collected was established for stationary source fee payers, while no cap was placed on fees for the manufacturers of consumer products and the manufacturers of architectural coatings. The bill also lowered the threshold of those fee payers subject to fee from 500 tons to 250 tons of emissions per year.

**LAO Recommendation:** The proposed shift of funding from the General Fund to fees is consistent with LAO's previous recommendation to increase fee-based support for the stationary source program along the polluter pays principle. However, the LAO believes the Governor's proposal does not go far enough and has identified an additional \$4.4 million of the remaining \$10.4 million of General Fund in the program that could be funded from the fee. The remaining \$6 million funds the research division of the stationary source program which the LAO believes should remain in the General Fund.

**Staff Recommendation:** Given the status of the General Fund, it seems appropriate to increase the fee-based support of the program to encompass all program activities except the research division. Staff recommends the subcommittee approve the LAO proposal to shift an additional fee \$4.4 million above the additional \$10 million fee shift to fund the stationary source program.

Staff also recommends that the subcommittee adopt supplemental report language to have the ARB report to the Legislature by October 1, 2003 on the final fee structure adopted for the stationary source program.

## Exemption for Agricultural Air Pollution Sources

**Background:** On May 14, 2002, the federal government signed a lawsuit settlement agreement which will require "major" agricultural emission sources in California to apply for federal air quality permits as required by Title V of the federal Clean Air Act. Currently, state law exempts such emission sources from air quality permitting requirements. "Major" sources in agricultural operations would include stationary diesel engines and certain confined feeding operations, among other sources.

**Issue:** The settlement agreement dictated a schedule for processing permits for this new category of permittees. Specifically, permit applications are due for agricultural sources that operate diesel engines by May 2003, and by October 2003 for all other major agricultural emission sources. Federal sanctions, including loss of federal transportation funding (\$2.5 billion), would be imposed if the deadlines are not met.

**LAO Recommendation:** Given the severe nature of the federal sanctions, LAO recommends the enactment of legislation to amend state statute to remove all exemptions for agricultural air pollution permitting before May 2003.

**Staff Comments:** SB 700 (Florez/Sher) has been introduced in the Senate to address this issue.

## Central Valley Air Quality

**Background.** In the past few years the problem of deteriorating air quality in the Sacramento/San Joaquin Valley has become an issue of statewide importance and concern. The federal government and the courts (rather than state or local decision making) have increasingly driven air quality policy in the region. In the past year, environmental groups forced the federal EPA to compel revisions to state law to establish permit requirements for agricultural sources of air pollution and to force the San Joaquin Valley air district to propose a comprehensive plan to reduce particulate matter air pollution.

**Staff Recommendation.** Given the severity of the air pollution problems in the valley, the subcommittee may wish to ask the board the following questions:

1. Does the board have any idea how much it spends on research, monitoring, and both regulatory and nonregulatory programs to reduce air pollution in the central valley?
2. Does the board think that more budgetary resources should be devoted to assessing and reducing air pollution in the valley?

## Smog Check Report Overdue

**Background.** AB 2637 (Cardoza -- Chapter 1001, Statutes of 2002) established the requirement for enhanced inspection and maintenance of motor vehicles in the bay area. Related legislation contained a provision requiring the board and the Bureau of Automotive Repair to report to the Legislature on streamlining the smog check program implementation.

In a March 14, 2003 letter, the board informed the Legislature that the BAR/ARB joint report relating to the Smog Check program would not be submitted to the Legislature by the statutory deadline of January 1, 2003.

In a letter to the ARB in response, the Senate pro Tem expressed frustration that legislators were informed two-and-a-half months after the deadline of the board's inability to complete the report on time.

The pro Tem's letter states:

*The timing of the proposed expansion of the program [to the bay area] was fortuitous in that implementation was concurrent with your agencies' work on program redesign. During the crafting of the [Cardoza] legislation, there was broad discussion about how the roll-out of the enhanced program in the Bay Area could include some of the redesign proposals expected in the January 1, 2003, report. Now that the report is delayed, this objective will be much more difficult to achieve.*

*Given your implementation schedule for the Bay Area, please explain how you intend to incorporate program redesign recommendations into the "new" enhanced program. Surely you don't intend to implement the current program in the Bay Area, which involves compelling major investment of capital by private sector partners, only to change the program in the near future. That strikes me as unfair to all program participants (i.e., consumers, repair shop owners, test-only shop owners, and state agencies).*

*The expansion of the Enhanced Smog Check program to the Bay Area is the largest expansion of the program since its inception. This occurrence provides a unique opportunity for the appropriate state oversight agencies to make important changes to Smog Check, changes that will ensure the program is fair to shop owners, convenient for consumers, and effective in achieving our shared goal of cleaner air.*

**Staff Recommendation:** Given the above letter, the subcommittee may wish to ask the ARB when the report will be submitted and what it may contain in the way of recommendations relevant to the implementation of AB 2637.

## 3910 Integrated Waste Management Board

The mission of the Board is to promote source reduction, recycling, composting, and environmentally safe transformation (in that priority order) as alternatives to the disposal of solid waste at landfills. The Board also protects the public health and safety through the regulation of existing and new solid waste land disposal sites.

The budget proposes total expenditures of \$115.5 million (\$0 General Fund), a reduction of \$11.8 million (9.3 percent) from the current-year budget.

<b>Integrated Waste Management Board Program Expenditures</b>					
	<i>(dollars in thousands)</i>				
<b>Program Expenditures</b>	<b>2001-02</b>	<b>2002-03</b>	<b>2003-04</b>	<b>\$ Change</b>	<b>% Change</b>
	\$107,012	\$132,542	\$120,927	(\$11,615)	-8.8%
Solid Waste Disposal Site Cleanup Loan	(70)	(70)	(70)	0	0%
Recycling Market Development Loan	(4,145)	(4,784)	(4,864)	(80)	-1.7%
Integrated Waste Management Acct Loan	(100)	(192)	(192)	0	0%
Administration	8,008	9,199	9,230	31	0.3%
Distributed Administration	(8,008)	(9,119)	(9,230)	(31)	-0.3%
<b>Total</b>	<b>\$102,695</b>	<b>\$127,281</b>	<b>\$115,478</b>	<b>(\$11,803)</b>	<b>9.3%</b>

## Review of Waste Board Structure and Program Delivery

**Background.** The Integrated Waste Management Act was enacted in 1989 under AB 939 (Chapter 1046, Statutes of 1989). At the time, the state was in the midst of a solid waste “crisis” of sorts in which regional disposal capacity was limited, reduction and recycling programs existed in only a few jurisdictions, and the then-Solid Waste Management Board was a part-time nine-member board that did not appropriately reflect the diversity of interests involved in integrated waste management.

AB 939 established comprehensive requirements for development and implementation of locally adopted and state-approved integrated waste management plans, created a full-time integrated waste management board with public, industry, and environmental representatives, and gave the board explicit policy

direction to promote the integrated waste management hierarchy of source reduction, recycling, composting, environmentally safe transformation and landfilling. Perhaps most significantly, the act required local governments to divert 50% of solid waste from disposal by the year 2000.

In the 13 years since the act became law, the integrated waste management program has matured; today, most local governments have adopted and implemented programs to reduce, recycle, and compost solid waste. The board has reviewed and approved hundreds of local integrated waste management plans and implemented other related statutory provisions of the Act.

**Staff Comments:** The question has arisen over whether the structure and makeup of the board, as well as many key provisions of the act, should be updated and revisited based on maturation of the program. Moreover, and in a time of severe budget constraints, the question of efficiency of expenditures (regardless of whether they are from the General Fund or the Integrated Waste Management Account) should be explored.

**Staff Recommendation:** The subcommittee may wish to ask the following questions of the Secretary of the agency or of the board and, to the extent it determines it is appropriate, direct staff, the LAO and the agency to bring recommendations to the subcommittee for changes to the statute:

- 1) Are board members of the Integrated Waste management Board compensated at the same level as other board members in the Agency (i.e., Air Board, Water Board)?
- 2) Is the work of the board a full-time job? Do board members spend a full work week performing their duties? Since most integrated waste management plans have been reviewed and approved, has the board's workload diminished?
- 3) How do the personal staff allocations to waste board members (i.e., advisors, personal assistants) compare to those of other boards in the agency?
- 4) Is a six-member board the appropriate number, given that most other boards are five members?

## Funding of Research for or Promotion of Tire Incineration

**Background.** The subcommittee has received several letters from environmental groups expressing concerns about the Board's five-year plan for the management of used tires which is intended to ensure that they do not pile up in landfills and become a hazard. These letters state opposition to the board's proposal to allow for the expenditure of tire funds collected from the public to fund the tire recycling program to research and promote the burning of tires in cement kilns.

**Staff Recommendation.** The subcommittee may wish to ask the following questions of the board:

1. Please explain the board's policies as they relate to funding for tire incineration research and promotion. Are there any statutory or regulatory limitations on the board's ability to spend public funds on tire burning projects?
2. What projects has the board funded in the past related to tire incineration? What were the results of the research projects the board has funded?

## 3930 Department of Pesticide Regulation

The department was created in 1991 as part of the California Environmental Protection Agency to protect the public health and the environment from unsafe exposures to pesticides. This function previously was carried out by the Department of Food and Agriculture. The department (1) evaluates the public health and environmental effects of pesticides, (2) regulates, monitors, and controls the use of pesticides in the state, (3) tests produce for pesticide residue levels, and (4) develops and promotes pest management practices that can reduce the problems associated with the use of pesticides. The department primarily is funded from taxes on the sale of pesticides in the state, various registration and licensing fees on persons who use or sell pesticides, and the General Fund.

The budget proposes total expenditures of \$53.3 million (\$49.8 million Department of Pesticide Regulation Fund), a decrease of \$1.1 million (2.1 percent) from the current-year budget.

Department of Pesticide Regulation Sources of Funding					
<i>(dollars in thousands)</i>					
Sources of Funding	2001-02	2002-03	2003-04	\$ Change	% Change
General Fund	\$16,392	\$12,795	\$1	(\$12,794)	-99.9%
Department of Pesticide Regulation Fund	35,365	37,861	49,794	11,933	31.5%
Cal. Environmental License Plate Fund	496	496	457	(39)	-8.5%
Food Safety Account, DPR Fund	2,037	418	412	(6)	-1.4%
Structural Pest Control Device Fund	71	0	0	0	0%
Federal Trust Fund	2,292	2,383	2,160	(223)	-9.4%
Reimbursements	492	479	479	0	0%
<b>Total</b>	<b>\$57,392</b>	<b>\$54,432</b>	<b>\$53,303</b>	<b>(\$1,129)</b>	<b>2.1%</b>

## Issues

### Funding the Department of Pesticide Regulation

**Budget Proposal:** The Governor's budget proposes to increase the pesticide mill assessment and pesticide licensing and examination fees to generate an additional \$10.4 million in revenue. The increased revenue would allow DPR to shift nearly all General Fund support for the Department of Pesticide Regulation to the Department of Pesticide Regulation Fund (DPRF).

The budget proposes trailer bill language to increase the statutory cap of the mill assessment rate from 17.5 mills to 27 mills (\$0.0175 to \$0.027), while allowing the department to set the mill assessment rate annually depending on the departmental funding level approved by the Legislature through the budget process. For 2003-04, the proposed budget for DPR would require a 25 mill assessment rate to be set.

The budget also proposes to increase fees on pesticide licenses, examinations, and continuing education programs administered by the department. The budget calculates the new fee rates by applying a cost-of-living adjustment from the last times the fees were adjusted in the mid-1980s. The proposed trailer bill

language also grant authority to DPR to adjust fees to in future years to cover the licensing and examination program costs. However, pesticide registration fees are not proposed to be increased.

**Background:** In 2001, the Legislature sought a long-term stable funding solution for funding the Department of Pesticide Regulation by passing AB 780 (Thomson). The bill extended the current mill rate of 17.5 mills until 2004 and required the department to establishing a committee of stakeholders, department officials, and legislative representatives to address the long term funding issues of the pesticide program. That report was recently submitted to the Legislature for review.

The mill assessment is currently set at a rate of 17.5 mills (one mill is equivalent to \$0.001 for each dollar of pesticide sold in the state). Six mills of the 17.5 are allocated to local County Agriculture Commissioners for pesticide regulatory activities and an additional  $\frac{3}{4}$  of one mill on the agricultural portion of pesticide sells to the California Department of Food and Agriculture for pesticide consultation and analysis. Also, a smaller amount of funds are generated through fees on pesticide registration, licensing and examination of pesticide dealers and applicators. In the current year, the mill assessment and fees account for close to 70 percent of DPR's funding, with a majority of the remaining funding coming from the General Fund.

**LAO Recommendation:** The LAO finds the Governor's proposal to shift nearly all General Fund support in the department to fees is a step in the right direction. However, the LAO thinks the proposal should go further and therefore recommends the enactment of legislation shifting the funding for pesticide-related programs in other agencies to pesticide fees.

The LAO has identified pesticide-related programs in the Air Resources Board, Department of Fish and Game, Office of Health Hazard Assessment, State Water Resources Control Board, and the Department of Health Services that they propose funding through the mill assessment.

The LAO recommends increasing registration fees to cover the costs of the program. The LAO also recommends that the subcommittee enact a tiered registration fee structure to reflect the higher program costs associated with the registration of restricted materials. Restricted materials are those pesticides deemed to present special hazards to health or the environment if misused.

**County Agriculture Commissioners:** The County Agriculture Commissioners (CACs) currently serve as the local enforcement agents for federal and state pesticide laws and regulations. The CACs provide over 300 inspector staff years annually to enforce California's environmental laws relating to pesticides.

Currently, 6 mills of the 17.5 mills are allocated to the CACs for pesticide regulatory activities. The level of funding provided by the mill assessment is insufficient to cover pesticide regulatory activities at the CAC level. County's currently provide \$16.1 million of county general funds toward pesticide regulatory activities.

**Staff Recommendation:** Staff recommends the subcommittee hold this issue open and direct staff, the LAO, and the department to develop trailer bill language addressing the appropriate mill assessment and pesticide registration fee levels necessary to fund the Department of Pesticide Regulation.

## Pesticide Risk Assessment & Toxic Air Contaminant Activities

**Background.** In 1991, then Governor Pete Wilson sponsored Governor's Reorganization Plan #1 which created the California Environmental Protection Agency. GRP 1 transferred specified pesticide regulatory functions from the California Department of Food and Agriculture to a new Department of

Pesticide Regulation within CAL-EPA. Because of concerns expressed by the agricultural industry, pesticide risk assessment activities remained with DPR, despite concerns over the commingling of risk assessment with risk management. In a separate action, the development of toxic air contaminants for pesticides were left with DPR, while all other toxic air contaminants were transferred to Office of Environmental Health Hazard Assessment (OEHHA) which is the risk assessment arm of Cal EPA.

**Staff Recommendation.** The committee may wish to ask the following questions of the secretary of the agency and the director of DPR:

1. Is there any reason why pesticide risk assessment and toxic air contaminant development for pesticides should continue to be performed by DPR and not by OEHHA?
2. What actions has DPR taken to ensure functional separation between risk assessment and risk management activities at the department? Should these actions be codified to ensure that future departments abide by them?

## Finance Letter

### Surface Water Monitoring, Air and Enforcement Programs

**Finance Letter Request:** The department has submitted a Finance Letter requesting to restore \$2,755,000 in funding for the Surface Water Monitoring, Air, and Enforcement programs. These programs provide data necessary for the accurate characterization of pesticide use in California and ensure the proper use of pesticides throughout the state.

### Local Assistance for County Agricultural Commissioners

**Finance Letter Request:** The Finance Letter also requests restoration of \$576,000 to restore support for the activities of county agricultural commissioners related to the permitting and use of restricted materials. The funding will ensure that the level of protection from pesticides posing increased risk to public health and the environment is maintained.

The department has identified increased resources in the Department of Pesticide Regulation Fund for the restoration of the above programs.

**Staff Recommendation:** Staff recommends approval of the Finance Letter.

## 3940 State Water Resources Control Board

The Board regulates water quality in the state and administers water rights. The Board carries out its water quality control responsibilities by (1) establishing wastewater discharge policies; (2) implementing programs to ensure that the waters of the state are not contaminated by surface impoundments, underground tanks, or aboveground tanks; and (3) administering state and federal loans and grants to local governments for the construction of wastewater treatment facilities. Nine regional water quality control boards establish water discharge requirements and carry out water pollution control programs in accordance with state Board policies. The Board's water rights responsibilities involve issuing and reviewing permits and licenses to applicants who wish to appropriate water from the state's streams, rivers, and lakes.

The budget proposes total expenditures of \$739.4 million (\$44.6 million, General Fund), a decrease of \$332.0 million (31.0 percent) from the current-year budget. A large majority of the reduction in spending is attributable to \$304.8 million in bond fund reductions for the local assistance program.

Water Resources Control Board Program Expenditures					
Program Expenditures	(dollars in thousands)				
	2001-02	2002-03	2003-04	\$ Change	% Change
Water Quality	\$718,944	\$1,060,325	\$730,652	(\$329,673)	-31.1%
Water Rights	11,705	11,105	8,731	(2,374)	-21.4%
Administration	14,991	17,119	14,468	2,651	-15.5%
Distributed Administration	(14,991)	(17,119)	(14,468)	(2,651)	15.5%
<b>Total</b>	<b>\$730,649</b>	<b>\$1,071,430</b>	<b>\$739,383</b>	<b>(\$332,047)</b>	<b>31.0%</b>

## Issues

### Funding the Water Rights Program

**Budget Proposal:** The budget proposes \$8.7 million for the water rights program, a 20 percent reduction in the funding from the current year. The reductions are accomplished by a proposed reduction of \$3.3 million in General Funds and 15.5 PYs to the water rights program. The Legislature recently approved current-year reductions to the water rights program of \$610,000.

**Background:** The SWRCB's water rights program is responsible for (1) issuing new water rights for water bodies that have not already been fully "allocated" to water rights holders, (2) approving changes to existing water rights, and (3) conducting ongoing enforcement and compliance monitoring of water rights.

The water rights permits issued specify the use, point of diversion, quantity, and other conditions that protect prior water rights holders, the public interest, and the environment. As part of the permit issuance process, the board publicly notices the permit application, allows for public comment, and conducts various environmental reviews as required by statute, including CEQA. Other state agencies, including the Department of Fish and Game, may also be involved in the environmental review process. After a water right has been approved, the project must be completed, inspected, and licensed. The board enforced the conditions of the permits and licenses through ongoing inspections and investigating complaints.

Currently, water rights applicants pay a one-time nominal application fee, which varies depending on the amount of the proposed diversion and/or storage. Applicants proposing large water diversions that are likely to have an impact on the environment pay for the preparation of any environmental documents required to comply with CEQA. The minimum application fee is \$100 and was established in the mid-1980s. The current fee generates approximately \$30,000 for the water rights program, or about 1 percent of program expenditures.

**Workload Backlog:** The LAO identified significant backlogs in the review and issuances of water rights by the board. Currently, the board receives about 170 applications a year, and at the current-year funding level processes around 150 applications per year. The board also issues approximately 125 licenses

annually on completed projects with over 1,000 permittees waiting. In addition, the board conducts about 120 inspections on current water rights holders, or less than 1 percent of water rights granted.

The Legislature over the last few years has generally sought to improve the process for issuance of water rights.

**LAO Recommendation:** The LAO believes the proposed reductions will only serve to exacerbate the current backlog in the program and that the program should be supported by water rights fees as there is a direct nexus between water rights holders and the application and compliance process.

The LAO recommends that the existing application fee be increased and a new annual compliance fee be created so that fee revenues replace General Fund support budget for the water rights program. These fees are to include water-rights-related costs incurred by other state departments. Finally, the LAO recommends consideration of the program funding requirements, especially in light of the current backlog and rate of production, when developing the legislation.

**Board's Response:** The Legislative Analyst has recommended that the Water Rights Program be converted from almost an exclusively General Fund program to an entirely fee supported effort in the budget year. While the Water Board has no position on this proposal, it notes the following implementation issues:

- Approximately 30 percent of the appropriated water in California is held by the federal government, which refuses to pay service fees.
- Of the total water beneficially used, 30 percent or more may be held by pre-1914 and riparian water right holders whose use is not routinely supervised by the Board. Nonetheless, such users receive benefits from the Water Rights Program in terms of complaint resolution, protection of existing rights, and on occasion, adjudication of present rights. Not all pre-1914 or riparian rights have been registered with the Board.
- The proposal does not account for the cost of fee program administration.
- It is not possible to develop and implement a full fee system in time to realize General Fund savings in the budget year.

**Staff Recommendation:** While the board does identify implementation issues, staff concurs with the LAO recommendation to fund the water rights program and help reduce the backlog by increasing water rights fees and establishing an annual compliance fee. In light of the status of the General Fund, staff recommends that the subcommittee hold this issue open and direct staff, the LAO, and the department to develop trailer bill language to partially fund the water rights program through fees.

## Funding Water Quality Activities

**Budget Proposal:** The Governor's budget proposes a fund shift of \$13.6 million from the General Fund to the Waste Discharge Permit Fund to fund the Core Regulatory Program. The shift would be accomplished by a proposed increase in the waste discharge permit fee and the storm water permit fee. This proposal would eliminate all General Fund support for Core Regulatory Program activities.

Despite these fee increases, the Governor's budget also proposes \$11.3 million in General Fund reductions and 13.2 PYs to various water quality activities. These proposed reductions are following recently approved current year reductions to water quality activities of \$2.5 million and 3.5 PYs.

Program Title	2002-03 (in thousands)		2003-04 (in thousands)	
	Reduction	PYs	Reduction	PYs
Data Management	-	-	\$500	-
Salton Sea Restoration	\$350	-	350	-
Regional Wetlands Management Plan	15	-	15	-
Spills, Leaks, Investigations, and Cleanup	25	-	290	-
Chromium 6	-	-	462	-
Monitoring & Assessment Programs	831	-	6,802	4.7
Agricultural Waste Management	450	-	1,124	5.0
Water Quality Planning	-	-	570	-
Underground Storage Tanks	-	-	682	-
Nonpoint Source	-	-	89	-
CALFED	365	3.5	365	3.5
Training	63	-	-	-
Equipment	67	-	-	-
Out-of-State Travel	11	-	24	-
<b>TOTAL</b>	<b>2,177</b>	<b>3.5</b>	<b>11,273</b>	<b>13.2</b>

**Issue:** The proposed reductions severely impact water quality monitoring activities. Water monitoring activities (particularly for groundwater quality) is a basic function of the Water Board, and is essential to permitting and enforcing water quality standards. The SWRCB has indicated that such reductions will substantially curtail its current water quality monitoring efforts, and thus its ability to effectively carry out its mission and mandates. Without proper monitoring abilities, the Water Board's permitting, investigation, enforcement, and cleanup activities will be significantly affected.

**Staff Comments:** During the recent mid-year revision process, the Legislature adopted and the Governor signed AB 10X (Oropeza) authorizing a waste discharge permit fee increase to be appropriated by the Legislature through the budget process. The bill states that waste discharge permit fees should be appropriated to recover costs incurred in connection with the issuance, administration, reviewing, monitoring, and enforcement of waste discharge requirements and waivers of waste discharge requirements.

Specifically, the statute states:

*Recoverable costs may include, but are not limited to, costs incurred in reviewing waste discharge reports, prescribing terms of waste discharge requirements and monitoring requirements, enforcing and evaluating compliance with waste discharge requirements and waiver requirements, conducting surface water and groundwater monitoring and modeling, analyzing laboratory samples, and reviewing documents prepared for the purpose of regulating the discharge of waste, and administrative costs incurred in connection with carrying out these actions.*

**Staff Recommendation:** Given the importance of water monitoring activities in the state to the public health and environment, staff recommends the subcommittee direct staff, the LAO, and the department to develop a proposal to backfill proposed General Fund reductions to water quality activities through waste discharge permit fees.

## 3960 Department of Toxic Substances Control

The department's mission is to protect the public health and the environment from unsafe exposure to toxic substances. In so doing it (1) regulates hazardous waste management, (2) cleans up sites that have been contaminated by toxic substances, and (3) promotes methods to treat and safely dispose of hazardous wastes and reduce the amounts of hazardous wastes that are generated in the state. The department is primarily funded from fees and taxes assessed on persons that generate, store, treat, or dispose of hazardous wastes.

The budget proposes total expenditures of \$159.0 million (\$20.1 million, General Fund), a decrease of \$4.5 million (2.8 percent) from the current-year budget. The majority of the reductions are from General Funded programs:

- \$1.019 million reduction for the Casmalia litigation. The department's activities at Casmalia are changing from litigation to technical support and technical support activities are billable to responsible parties.
- \$729,000 reduction and a \$907,000 fund shift to the Toxic Substances Control Account for state and superfund orphan sites
- \$985,000 reduction to some Clandestine Drug Lab Cleanup activities

Department of Toxic Substance Control Program Expenditures					
Program Expenditures	(dollars in thousands)				
	2001-02	2002-03	2003-04	\$ Change	% Change
Site Mitigation	\$224,562	\$97,639	\$89,301	(\$8,338)	-8.5%
Hazardous Waste Management	44,844	49,884	58,416	8,532	17.1%
Statewide Support	3,573	3,968	0	(3,968)	-100%
Administration	27,676	30,506	37,871	7,365	24.1%
Distributed Administration	(27,676)	(30,506)	(37,871)	(7,365)	-24.1%
Science, Pollution Prevention & Technology	11,960	12,081	11,324	(757)	-6.3%
<b>Total</b>	<b>\$284,939</b>	<b>\$163,572</b>	<b>\$159,041</b>	<b>(\$4,531)</b>	<b>-2.8%</b>

## Budget Issues

### Review of Electronic Waste Activities

**Background.** The subject of electronic waste, or "e-waste", has become of increasing importance as a policy matter in recent years. The Department of Toxic Substances Control has used its authority under

law to designate cathode ray tubes (CRTs) and other e-waste as universal hazardous wastes. At the same time, the department has articulated special and less stringent rules for the common handling of such wastes.

**Staff Recommendation:** Given that there are several bills currently pending in the Legislature on the subject of e-waste, the committee may wish to ask the director the following questions:

1. What is the process by which the department determines if a product is a universal hazardous waste? What types of e-waste has the department determined to be hazardous waste?
2. Does the department have sufficient statutory authority to regulate e-waste? Does it have sufficient budgetary resources to ensure that e-waste is properly regulated?

## Finance Letters

### **Transfer Navy Military Base Oversight to Cost-Recovery Program**

**Finance Letter Request:** The department has submitted a Finance Letter requesting an increase of \$3,525,000 to the department's cost-recovery activities at naval bases and a reduction of \$5,365,000 from its federal funding request to reflect a change in billing procedures requested by the Navy for consistent billing practices from regulatory agencies.

### **Cleanup Loans and Environmental Assistance to Neighborhood**

**Finance Letter Request:** The department is also requesting in the Finance Letter a transfer of \$424,000 from the Cleanup Loan and Environmental Assistance from Neighborhoods (CLEAN) Account to the Toxic Substances Account to provide for oversight activities at CLEAN loan sites. Funding in the CLEAN account is available due to the repayment of a CLEAN loan in January.

### **Board of Equalization Interagency Agreement**

**Finance Letter Request:** The department is also requesting in the Finance Letter an increase of \$380,000 in payments to the Board of Equalization for contract costs.

**Staff Recommendation:** Staff recommends approval of the Finance Letter.

## 3980 Office of Environmental Health Hazard Assessment

The Office of Environmental Health Hazard Assessment (OEHHA) was created in 1991 as part of the California Environmental Protection Agency to evaluate the health risks of chemicals in the environment. The office (1) develops and recommends health-based standards for chemicals in the environment, (2) develops policies and guidelines for conducting risk assessments, and (3) provides technical support for environmental regulatory agencies.

The budget proposes total expenditures of \$10.8 million (\$8.7 million General Fund), a decrease of \$4.2 million (28.1 percent) below the current-year budget.

OEHHA Program Expenditures					
<i>(dollars in thousands)</i>					
Program Expenditures	2001-02	2002-03	2003-04	\$ Change	% Change
General Fund	\$12,963	\$12,004	\$8,707	(\$3,297)	-27.5%
Calif. Environmental License Plate Fund	808	775	800	25	3.2%
Federal Trust Fund	0	2	0	(2)	-100%
Reimbursements	1,471	2,277	1,339	(938)	-41.2%
<b>Total</b>	<b>\$15,242</b>	<b>\$15,076</b>	<b>\$10,846</b>	<b>(\$4,230)</b>	<b>-28.1%</b>

## Budget Issues

### Finance Letter

#### Alternative Fund Sources to Proposed General Fund Reductions

**Current Budget Proposal:** The budget proposes a \$3.6 million reduction in General Fund expenditures. The proposal calls for a reduction of 34 filled positions, 244,000 in contract funds, including the elimination of the Pesticide Worker Health and Safety Program and reducing various air quality standard reviews.

Reduction	Amount (in millions)
Air Toxicology and Epidemiology	\$0.3
<ul style="list-style-type: none"> <li>Indoor Air Program</li> <li>Criteria for Air Pollutant Program</li> </ul>	
Pesticide and Environmental Toxicology Section	1.4
<ul style="list-style-type: none"> <li>Pesticide Worker Health &amp; Safety Program</li> <li>Peer Review of Pesticide Registration Risk Assessments</li> <li>Program Support</li> </ul>	
Reproductive and Cancer Hazard Assessment	0.4
<ul style="list-style-type: none"> <li>Proposition 65 Safe Harbor Program</li> <li>Fuels Program</li> <li>Program Support</li> </ul>	
Integrated Risk Assessment	0.8
<ul style="list-style-type: none"> <li>Emerging Challenges Program</li> <li>Environmental Protection Indicators</li> <li>California/Mexico Border Program</li> <li>Alternative Fuels Program</li> </ul>	
Executive/Administration	0.7
<b>TOTAL</b>	<b>\$3.6</b>

**Finance Letter Request:** The office has submitted a Finance Letter requesting to restore \$3.523 million and 33 position that were proposed to be eliminated above. The proposal asks to restore funding and the associated activities through direct appropriations of special funds, increased General Fund and reimbursement authority, and the redirection of baseline General Fund dollars. The proposed funding in the Finance Letter is on a one-time basis for FY 2003-04.

The Finance Letter request restores all proposed reductions except the reductions to the Emerging Challenges Program (\$95,000), the Environmental Protection Indicators of California program (\$83,000), and the Scientific Peer Review of Pesticide Risk Assessments program (\$309,000). The Finance Letter also requests funding for several new OEHHA activities including assisting the CIWMB with conversion technologies and waste tire fires hazards and assisting the SWRCB with the development of water quality standards for selected toxic pollutant discharges.

**LAO Recommendation:** Due to the recent nature of the Finance Letter, an LAO recommendation could not be completed in time for completion of the agenda. However, during pre-hearing meetings, the LAO had raised concerns regarding aspects of the Finance Letter.

**Staff Comments:** While the Finance Letter addresses critical reductions to OEHHA's budgets, it is important to note that the proposal is on a one-time basis for FY-2003-04. In recent years, the subcommittee has worked to address the long term funding needs for OEHHA.

**Staff Recommendation:** Staff recommends approval of the Finance Letter. In light of the one-time nature of the Finance Letter, staff also recommends the subcommittee adopt supplemental report language asking OEHHA to report on long-term baseline requirements of the office to fund OEHHA at a level that allows the office to adequately meet its statutory requirements.

## Shift of Scientific Peer Review of Pesticide Risk Assessments

**Budget Proposal:** The budget proposes a General Fund reduction of \$309,000 in OEHHA by shifting scientific peer review of pesticide risk assessments from OEHHA to the Secretary of Cal EPA. This reduction is part of the larger \$1.4 million pesticide-related activities reduction shown above and was not restored by the above Finance Letter.

**Background:** Current law requires OEHHA to perform scientific peer review of pesticide studies, registration reviews, and risk assessments conducted by DPR. Another statute requires the Secretary for Cal EPA to coordinate peer review of policies, regulations, and guidelines proposed by Cal EPA departments, using a scientific peer review panel of independent scientists. The budget proposes to shift responsibility for the pesticide-related peer review from OEHHA to the Secretary's external scientific peer review panel.

**LAO Recommendation:** The LAO believes the shift will not weaken OEHHA's position as the state's environmental risk assessor, but also weaken the review process by shifting the review to an advisory panel that is not configured or funded to handle individual risk assessments or has the specialized technical background for pesticide review. The LAO recommends the subcommittee deny the Governor's proposal to shift responsibility for conducting scientific peer reviews of pesticide-related risk assessments from OEHHA to a the Secretary of Cal EPA. As stated before, the LAO recommends funding this pesticide-related activity through the Department of Pesticide Regulation Fund.

***Staff Recommendation:*** Staff shares the concern of the LAO recommendation with the shift of scientific peer review of pesticide risk assessments. Staff recommends rejecting the proposed shift, however staff recommends restoring General Fund support for the program of \$309,000.